



New Jersey Department of Children and Families Policy Manual

Manual:	NJAC	NJ Administrative Code Excerpts	Effective Date:
Title	10	Human Services	
Chapter	133J	Termination of Parental Rights	12-11-2015
Subchapter:	3	Surrender of Parental Rights	
Section	1	Division responsibilities (N.J.A.C. 10:133J-3.1)	

§10:133J-3.1 Division responsibilities

(a) The Division representative shall counsel the parent regarding the meaning, finality and consequences of surrendering parental rights in accordance with N.J.A.C. 10:121A-5.4 when surrendering parental rights is being considered. For all cases in litigation, surrenders of parental rights must go through appropriate court proceedings.

(b) The Division representative shall advise the parent that he or she may stop the surrender of parental rights at any point in the procedure.

(c) The Division is not obligated to accept a surrender of parental rights from a parent.

(d) The Division representative shall determine that the parent is competent to execute a surrender and has a full opportunity to understand the meaning and consequences of surrendering parental rights by:

1. Questioning and observing the parent and reviewing evaluations, professional opinions or reports, as necessary, to determine that there are no obvious or overt indicators that the parent has a diminished capacity to understand the meaning, consequences and finality of surrendering parental rights because of alcohol or drug use, psychological disorder or mental deficiency;

2. Reading aloud to the parent the full contents of surrender of parental rights documents;

3. Providing a verbal explanation to the parent of the contents of the surrender of parental rights documents including an explanation of the meaning, consequences and finality of the act of surrendering parental rights;

4. Providing an opportunity for the parent to ask questions about surrendering parental rights; and

5. Asking the parent to explain, in his or her own words, the meaning, consequences and finality of surrendering parental rights.

(e) The Division representative shall make documents related to surrendering parental rights available in a language, which the parent understands, or the Division shall provide competent verbal or sign translation of the surrender of parental rights procedure into a language, which the parent understands.

(f) The Division representative shall attempt to determine, through questions and observation, any duress, undue pressure or coercion which has been brought to bear on the parent in order to induce him or her to surrender parental rights.

1. The Division representative shall not coerce the parent in order to induce him or her to surrender parental rights; and

2. The Division representative shall attempt to ascertain the cause of any duress, undue pressure or coercion on the parent and counsel the parent regarding services to help the parent cope with the duress.

(g) The surrender of parental rights shall be witnessed by at least one Division representative who is not assigned to the case, who is 18 years of age or older and who is not notarizing the signature.

(h) The witness shall make a determination, to the best of his or her ability, that:

1. The parent understands the meaning, consequences and finality of surrendering parental rights;

The parent is competent to surrender parental rights; and

3. The Division representative attempted to determine and mitigate any duress on the parent in accordance with (f) above and that the parent is surrendering parental rights of his or her own free will.

(i) The witness shall sign an affidavit regarding his or her role and observations in the surrender of parental rights.

(j) Unless the person is disruptive to the procedure or is a source of duress on the parent, the parent may have a friend, relative or representative present at the surrender of parental rights procedure. The friend, relative or representative may sign an affidavit regarding his or her role and observations during the surrender of parental rights but shall not be the witness to the procedure identified in (g) above.

(k) The Division representative or the witness shall stop any procedure regarding the surrender of parental rights if the parent appears to be under duress or incompetent to surrender parental rights in accordance with (d) or (f) above.

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